

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Wednesday, March 25, 2015
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE CONCURRENT RESOLUTION 86
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
CONSIDER REQUIRING THAT EMPLOYEES OF WATERSPORT EXCURSION
COMPANIES WHO TAKE CUSTOMERS ON WATERSPORT EXCURSIONS RECEIVE
LIFEGUARD TRAINING AND CERTIFICATION.**

House Concurrent Resolution 86 proposes that the Department of Land and Natural Resources (Department) require employees of watersport excursion companies who take customers on watersport excursions receive lifeguard training and certification. **The Department appreciates the intent and offers these comments.**

The Department can place general provisions into its permits, however, the specific requirements mentioned in this resolution will have to go through the rule making process. This ensures that the general public and watersport excursion companies have the opportunity to provide their input and feedback.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
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Honolulu, HI 96813-3304
(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair
Rep. Nicole E. Lowen, Vice Chair

DATE: Wednesday, March 25, 2015
TIME: 9:00 am
PLACE: Conference Room 325

Speaking in Opposition to HCR 86 as Proposed

Chair Ing, Vice Chair Lowen and Members of the OMH Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition. The OTC represents over 300 ocean tourism businesses state wide. Most of these operate USCG Inspected and Licensed Vessels. The majority are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities. These companies have an impressive record for safety.

The OTC Opposes HCR 86 as written. We agree with the intent of this resolution to increase safety on Watersports Excursions however we believe HCR 86 is too broad and should narrow its focus.

- Watersports excursion companies cover a wide range of activities. Most of which are not using USCG inspected vessels. Many are operating from shore in a variety of venues. Vessels can be divided into two categories: 1. Larger Vessels that are Inspected and licensed by the USCG to carry passengers also with State of Hawaii commercial permits and 2. Smaller vessels and other ocean sports

that are Uncertified by the USCG operations except for a commercial permit from the State of Hawaii DOBOR.

- The USCG Certified and Licensed vessels can be further divided into a variety of different ocean sports. The SCUBA/SNUBA Dive industry for example already has safety standards appropriate for taking passengers below the surface of the water that are far more comprehensive than a Life Guard Certification.
- Large commercial vessels that are certified by the USCG already have USCG Oversight and requirements which are continually being updated. Every Crew member must have a current CPR Certification, it is mandated by the USCG that the vessel owner/operator conducts quarterly Man Overboard Drills, Fire Drills, Ship Emergency Drills, Abandon Ship Drills, and other company appropriate procedures which must be entered in the official ships log.
- Anytime there is a medical emergency the Captain must notify the USCG and file a comprehensive report with the USCG outlining every aspect of the Medical Emergency and the steps taken to mitigate and resolve the emergency. Every serious Medical Emergency is investigated by the USCG.
- Our crews are trained to put passenger safety as the highest priority. They are trained in how to retrieve a person from the water and bring them safely back on the vessel, to transfer a person from the large vessel to a smaller rescue vessel,
- The safety record of our Hawaii larger tour industry is the best in the world. The Hawaii sector of the Commercial Tour industry with oversight by the USCG takes millions of people on ocean excursions including snorkeling and diving each year and does it with the highest degree of safety. Any medical emergency that leads to a death is very serious, however drowning incidents are rare in the USCG Certified Tour industry.
- These passengers are prescreened and supervised on their snorkel/dive tour. Consequently our safety record is superb.

- The vast majority of drowning accidents occur in unsupervised conditions on beaches with no life guards and no supervision.
- As a USCG Certified Vessel Operator and Captain we are personally and corporately responsible for the safety of our passengers which we take very seriously. Each company has a protocol that addresses the specific circumstances of their particular trip;
- Vast majority of serious medical events we experience have to do with preexisting medical conditions such as heart problems. Our vessels have Oxygen and AED's on board. Our Captains and crew are trained in appropriate skills to deal with these issues such as: CPR; AED operations and procedures; First Aid; administering Oxygen, and other first responder skills.

The USCG Certified Commercial Tour Vessel industry already has adequate oversight by the US Federal Government and should not be included in this resolution.

This is an administrative nightmare. This program will be very expensive to comply with. Will new hires need to have a Certified Life Guard Certificate before working for one of our companies? Who will conduct the certification? When will these classes be offered? What about companies that already have well trained staff? Will on the job training fulfil this requirement? Who will oversee this process? How will it be enforced?

In 2014 millions of individuals went snorkeling in Hawaii. A significant percentage did that on USCG Certified Inspected Vessels on supervised guided snorkel tours. There were 10 deaths statewide that were involved with vessels both USCG Certified and non-certified. All 10 had a preexisting medical condition which caused their death. 9 of the 10 were over 50 years old.

Since 2004 there have been 73 medical emergencies that resulted in the death of a passenger. (that is an average of 6.6 deaths per year). Of that 73 deaths, 58 were over 50 years old all but three had a preexisting medical condition that caused their death. Of the 15 deaths that were in individuals under 50 years old in the past 11 years, it is estimated that only 2 people actually drowned and this has not been directly attributed to a USCG Certified and Inspected vessel and crew, it very well may have been an unsupervised event.

The OTC industry is not perfect and we are always striving to get better. Every person's life that goes on any of our vessels is of unmeasurable worth. We as an industry, are working with the USCG to continue to develop protocols and procedures that will save lives. Clearly our focus needs to continue to be on what the real problems are not what they are not. Frankly, drowning medical emergencies are extremely rare in our industry. The overwhelming majority of deaths are from preexisting medical conditions in individuals over 50.

We do not need or want the State to interject another procedure into this important process which we are already working with the USCG on to help reduce these deaths. This resolution, while well intentioned, could very possibly divert precious resources from the larger goal which is already in process with the USCG Certified and Inspected Vessels and crew.

We humbly ask you to not include USCG Inspected Vessels in HCR 86.

Sincerely,

James E. Coon, President
Ocean Tourism Coalition
Captcoon@gmail.com
808-870-9115

omhtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 11:51 AM
To: omhtestimony
Cc: jeff@mauidiveshop.com
Subject: Submitted testimony for HCR86 on Mar 25, 2015 09:00AM

HCR86

Submitted on: 3/23/2015

Testimony for OMH on Mar 25, 2015 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Maui Dive Shop	Oppose	No

Comments: Please do not pass this bill. The marine industry already has many training and water safety programs. There are many commercial ocean users like whale watches, dinner cruises and sunset sail where passengers do not even get into the ocean. A bill such as this burdensome and over reaching.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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March 24, 2015

COMMITTEE ON OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS
NOTICE OF HEARING

DATE: Wednesday, March 25, 2015
TIME: 9:00 am
PLACE: Conference Room 325

OPPOSE HCR86 - Watersport Excursion Companies; Lifeguard Training and Certification

Dear Rep. Kaniela Ing, Chair and Rep. Nicole E Lowen and Members

Thank you for the opportunity to testify, my name is Melynda Dant. I am the Vice President of Fair Wind Cruises and Kona Sunrise Charters, both companies conduct snorkel tours on the Kona Coast of Hawaii Island. Our family business has been offering snorkel cruises for over 42 years, in which we have hired and employed hundreds of people.

The requirement for DLNR to keep track of every employee on every snorkel cruise tour business in this state is unrealistic. Even if DLNR-DOBOR required proof of lifeguard certified crew, there is a very large turnover in this business. People move to the islands thinking they want to live here and get a job on a snorkel boat, very often they determine the cost of living expense and being far from family is not what they had envisioned and they leave the industry and often the islands all together.

Also adding another task to this very heavily burdened department is not the direction the state should move. The USCG requires man-overboard drills to be performed quarterly by Captain's and crew on all certified passenger vessels. Anytime there is a medical emergency the Captain must notify the USCG and file a comprehensive report with the USCG outlining every aspect of the Medical Emergency and the steps taken to mitigate and resolve the emergency. The USCG investigates every serious Medical Emergency.

As a USCG Certified Vessel Operator we are personally and corporately responsible for the safety of our passengers in which we take very seriously. We operate our 100 passenger and 40 passenger vessels on a daily basis. We do Snorkel, and SNUBA excursions. We have in the water crew with large surf boards as well as crew on the vessel spotting for anyone in trouble therefore able to direct our In water staff to the person quickly.

Vast majority of serious medical events we experience have to do with preexisting medical conditions such as heart problems. Our vessels have Oxygen and AED's on board. Our Captains and crew are trained in appropriate skills to deal with these issues such as: Lifeguard certification, CPR; AED operations and procedures; First Aid; administering Oxygen, and other first responder skills.

We as professional ocean tourism businesses have added these safety trainings above requirements for obvious reasons. Our visitors are our guests and our crew are family, to administer an AED or CPR is an emotional experience. To have the responder carry the emotional load of saving someone from death is not a light task. This is a fact of life for our crew, and we want to support and have them well-equipped for anything that might occur on their watch.

This resolution, while well intentioned, could very well divert precious resources from the larger goal, which is already in process with the USCG Certified and Inspected Vessels and crew. Not to forget the huge burden to the DLNR who does not have the manpower, funds, training or ability to administer HCR86. The USCG Certified Commercial Tour Vessel industry already has adequate oversight by the US Federal Government and should not be included in this resolution.

Thank you for your time and this opportunity to submit testimony on this critical issue.

Melynda Dant
Vice President
Fair Wind Cruises
Kona Sunrise Charters
Keauhou Bay, Hawaii

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 24, 2015 8:19 AM
To: omhtestimony
Cc: octopus@maui.net
Subject: Submitted testimony for HCR86 on Mar 25, 2015 09:00AM

HCR86

Submitted on: 3/24/2015

Testimony for OMH on Mar 25, 2015 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rene Umberger	Octopus Reef	Support	No

Comments: Aloha Chair Ing and Committee Members, We support with one amendment: scuba and snorkel tours should be excluded from the list of activities requiring lifeguard training. These activities are conducted by individuals highly trained to international standards in rescue techniques. In fact, in areas where no lifeguards are present, dive instructors and divemasters (i.e. dive and snorkel guides) are de facto lifeguards, saving lives across the state. In my career as a dive instructor I have prevented drownings and near drownings of at least a half dozen snorkelers, swimmers and kayakers who got themselves into trouble. Every dive instructor I know has similar stories. Mahalo, Rene Umberger

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omhtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 21, 2015 7:48 AM
To: omhtestimony
Cc: etvuong@hotmail.com
Subject: *Submitted testimony for HCR86 on Mar 25, 2015 09:00AM*

HCR86

Submitted on: 3/21/2015

Testimony for OMH on Mar 25, 2015 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Erik Vuong	Individual	Support	No

Comments:

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LATE

Re: Oppose HCR86

- I am Jerrod Kowalski and I am the General Manager for Aqua Lung Pacific in Aiea.
- I oppose legislative efforts to require blanket life guard training for operators.
- Life guard training should not be required across the board as it is not necessary. For folks that have rescue diver, Divemaster OWSI, Skindiving Leader or above, they do not need nor should they be required to have lifeguard training. All should be current in first aid, AED and CPR.

Thank you,

Jerrod Kowalski
General Manager
Aqua Lung Pacific



Kahikolu Ltd., d/b/a Quicksilver
150 Lahainaluna Rd
Lahaina, HI 96761
(808) 667-0990 Office
(808) 667-6707 Fax

LATE

**Opposition Testimony To: House Committee on Ocean, Marine Resources, & Hawaiian Affairs
Kaniela Ing, Chair**

**From: Zachary LaPrade
General Counsel, Quicksilver Charters**

Date/Time of Hearing: March 25, 2015, 9:00 AM

Measure No. and Title: HCR86

Chair Ing and Members of the Committee:

Quicksilver Charters Opposes HCR 86 as written. We agree with the intent of this resolution to increase safety on Watersports Excursions; however we believe HCR 86 is too broad and should narrow its focus.

HCR86, as written, has real and immediate effects on the snorkel charter business Hawaii economy. Additional lifeguard training requirements will stifle employment opportunities, conflict with existing United States Coast Guard safety standards, divert resources away from USCG safety protocols, and expose the State to litigation for taking on the burden of regulating safety standards. Also, most, if not all, of water related deaths and injuries *are the result of a preexisting conditions*. There is no evidence that injuries/deaths are the result of inadequate training. Therefore, a resolution should be drafted to educate tourists instead of creating additional regulations for the commercial charter industry. The commercial charter industry is already regulated by the USCG and there are extensive safety protocols.

Water-Related Injuries are Not the Result of Improper Training

There were 10 snorkeler/diver deaths in 2014. Nine out of the 10 deaths were the result of a preexisting medical conditions, not inadequate training. [See Exhibit "A" PowerPoint Provided by the United States Coast Guard]. On average, our vessels alone take 200 or

more passengers each day. The industry overall takes out millions of passengers a year. In short, our current safety records are excellent.

The Federal Government Already Regulates Safety

The USCG is in continual contact with our industry and most vessels work closely with USCG Safety Officers. USCG enforces CPR certification, drug policies, post incident drug and alcohol testing, emergency drills and other safety procedures. There are also an extensive investigation by an investigating officer each incident, which includes reporting requirements. For example, here is the list of documents a USCG Investigating Officer requests after an incident.

- CG-2692 - Report of Marine Accident;
- CG-2692B - Report of Chemical Drug and Alcohol Testing;
- Please include the brand, model, and serial number of your intoximeter.
- Passenger manifest or list for the date of the incident;
- Mr. Tuma's medical/insurance waiver for snorkeling, if any;
- Written statements from the crew who were directly involved;
- 96-hour Work-Rest History forms for the crew who were directly involved;
- MRO reports of (hopefully) negative drug test results.

Investigations always end with safety recommendation and requirements from the investigating officer. Adding additional requirements to this process will only complicate matters and create a unnecessary burden.

Resources

Additional State testing and regulation will distract vessels from the existing USCG regulations and will divert resources away from complying with USCG regulations.

Barrier to Employment

Unless the DLNR can adopt safety training course offered on a regular basis, HCR86 would eliminate jobs in Hawaii and contribute to unemployment. If potential crewmembers cannot get in the water until after a DLNR certification process, they won't be hired. If, for instance, DLNR arranges for a lifeguard certification course every six months, a potential employee would be unable to find a job until after the next certification course.

The State Assumes Liability

If DLNR fails to adopt the correct safety standards, or is unable to maintain a proper regulatory presence, an injured passenger may make a claim against a State employee for failure to adopt and teach the correct safety standards.

Conclusion

The State does not need to introduce another procedure into the current USCG safety standards. Therefore, we respectfully ask you to not include USCG vessels in HCR 86.

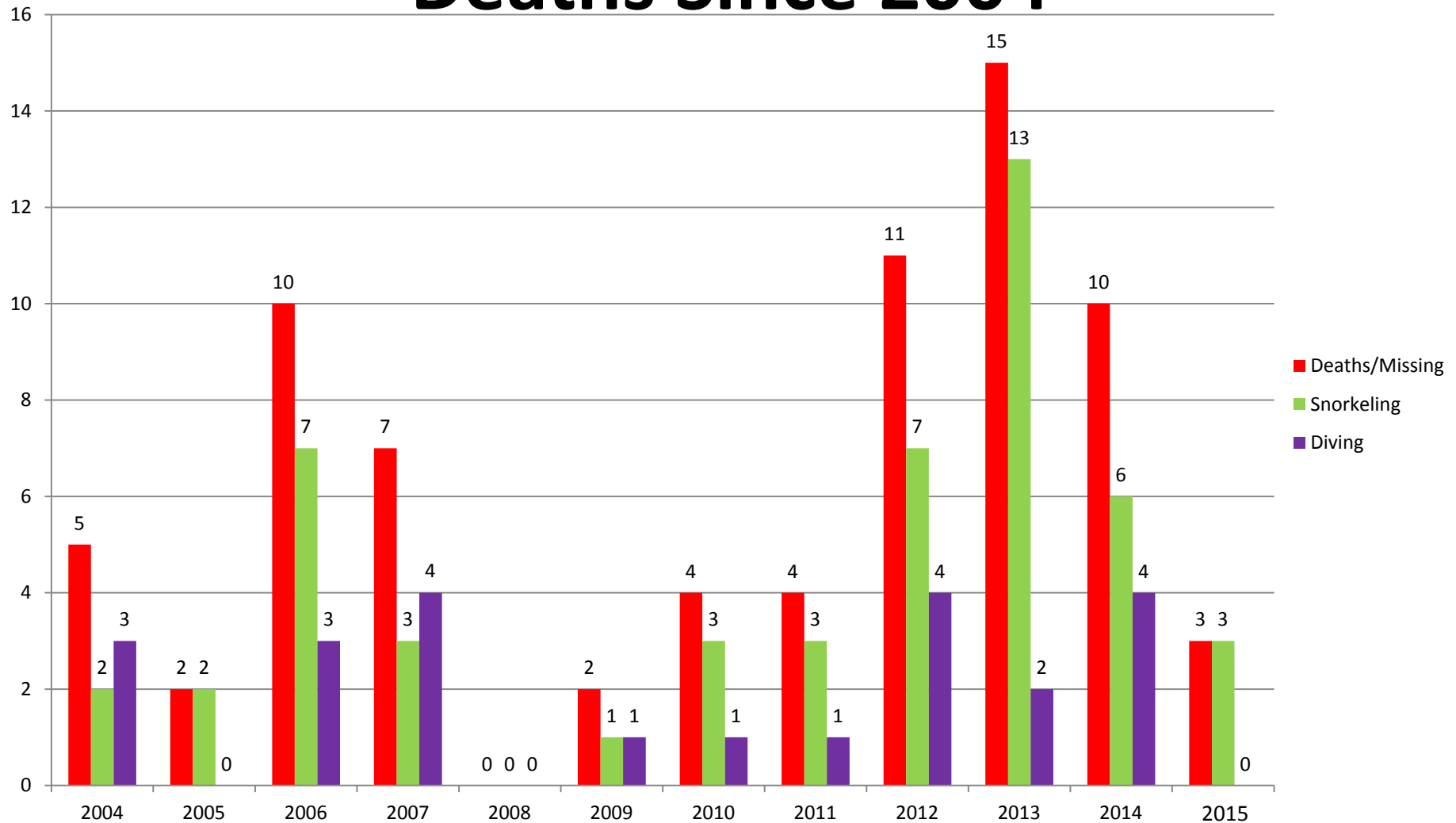
Sincerely,

Zachary LaPrade

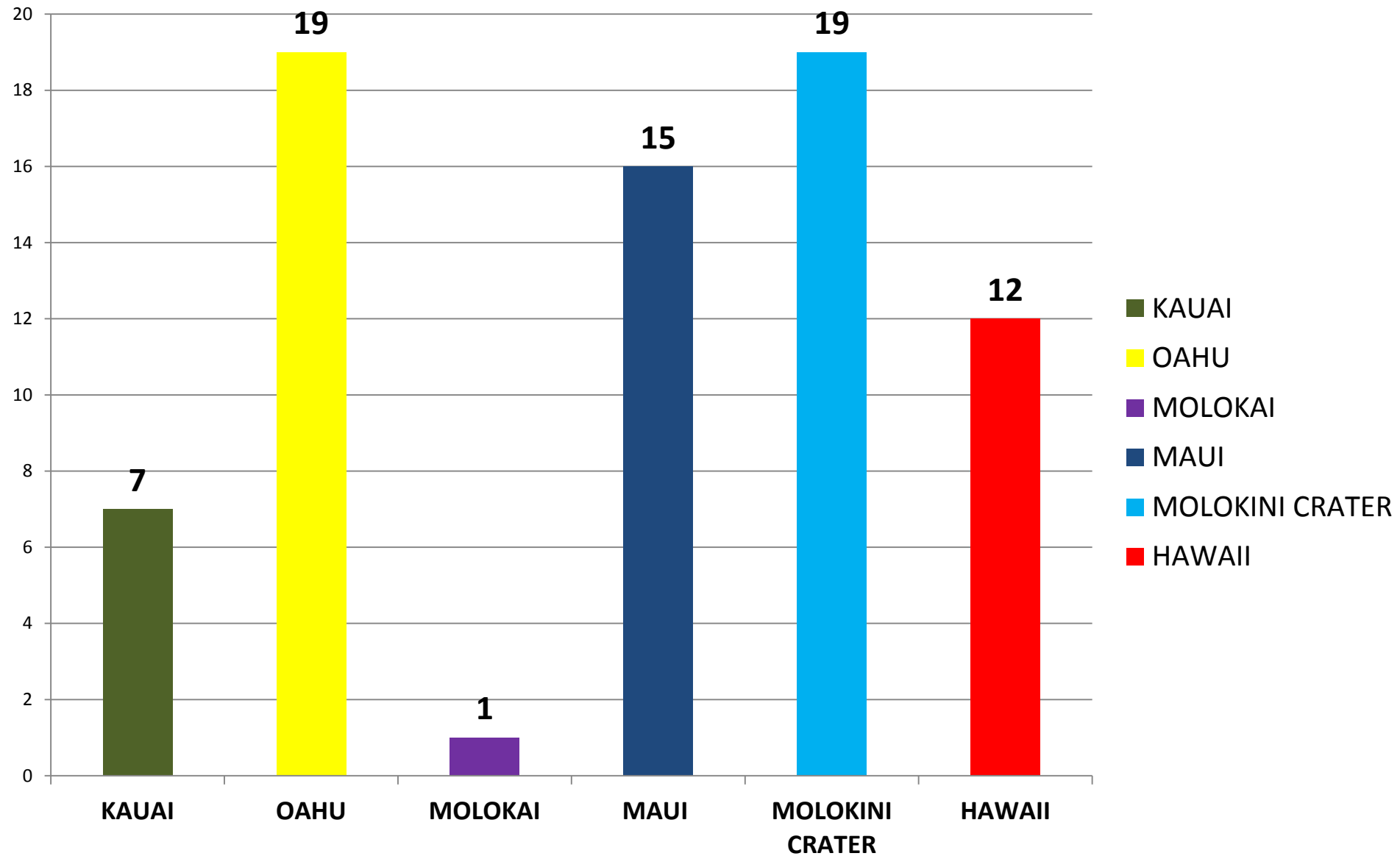


Exhibit "A"

Comparison of Snorkeling/Diving Deaths Since 2004

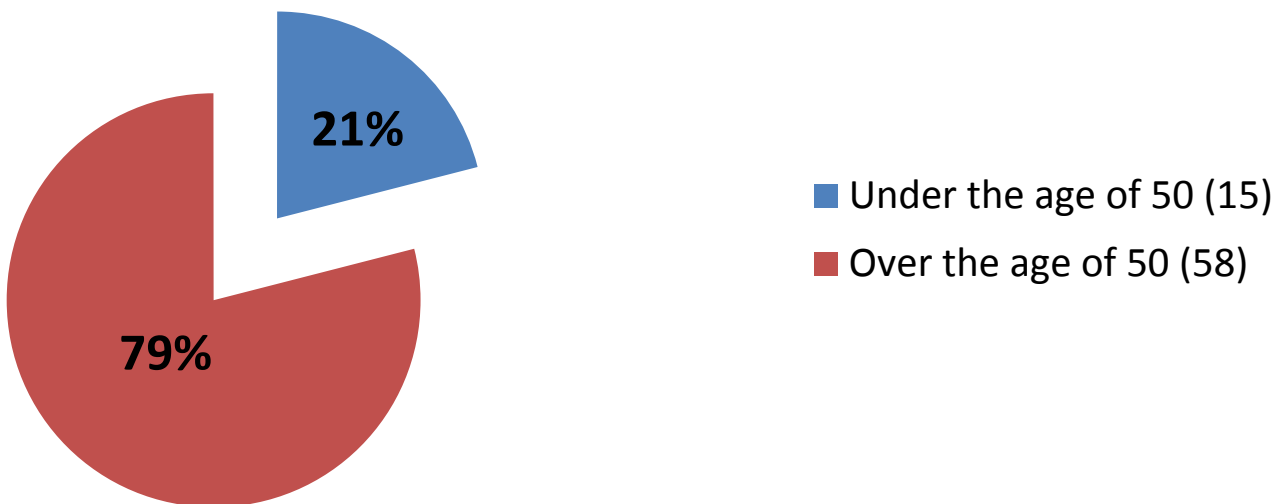


LOCATION OF DIVER/SNORKLER DEATHS

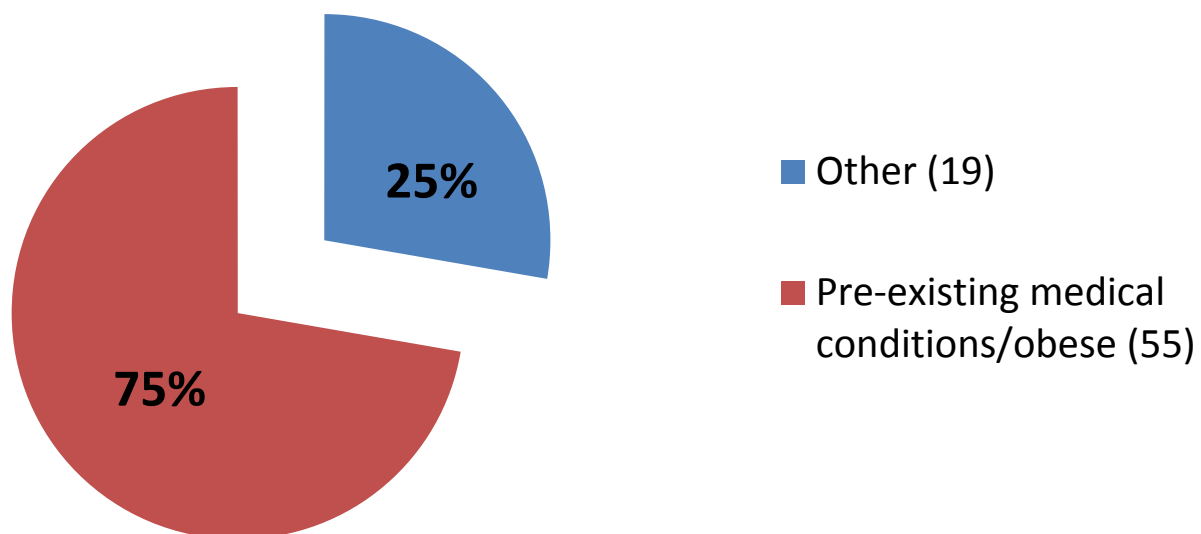


Primary Contributing Factors to Diver/Snorkeler Deaths 2004-Present

Deaths of Persons Over the Age of 50



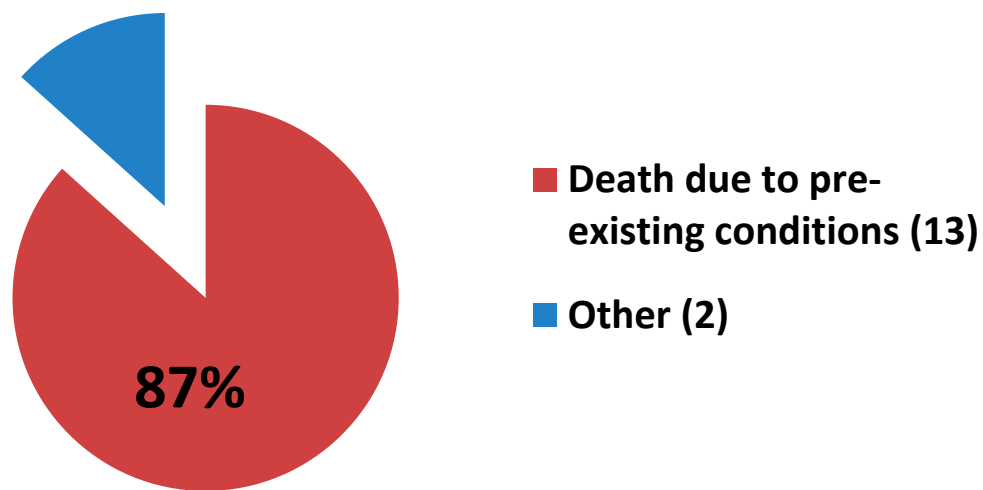
Deaths due to Pre-existing Medical Conditions/Obese



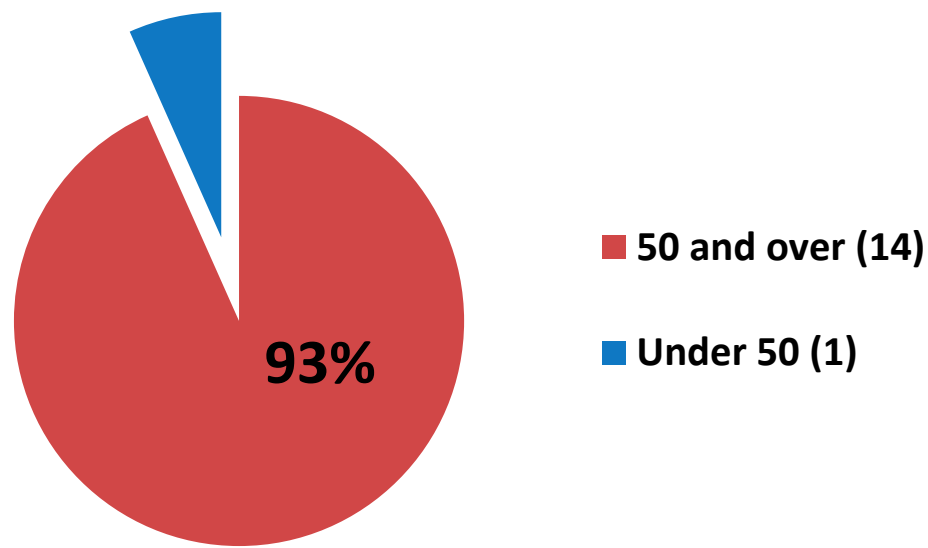


Primary Contributing Factors of Snorkeler/Diver Deaths in 2013

Deaths Due to Pre-existing Medical Conditions/Obese

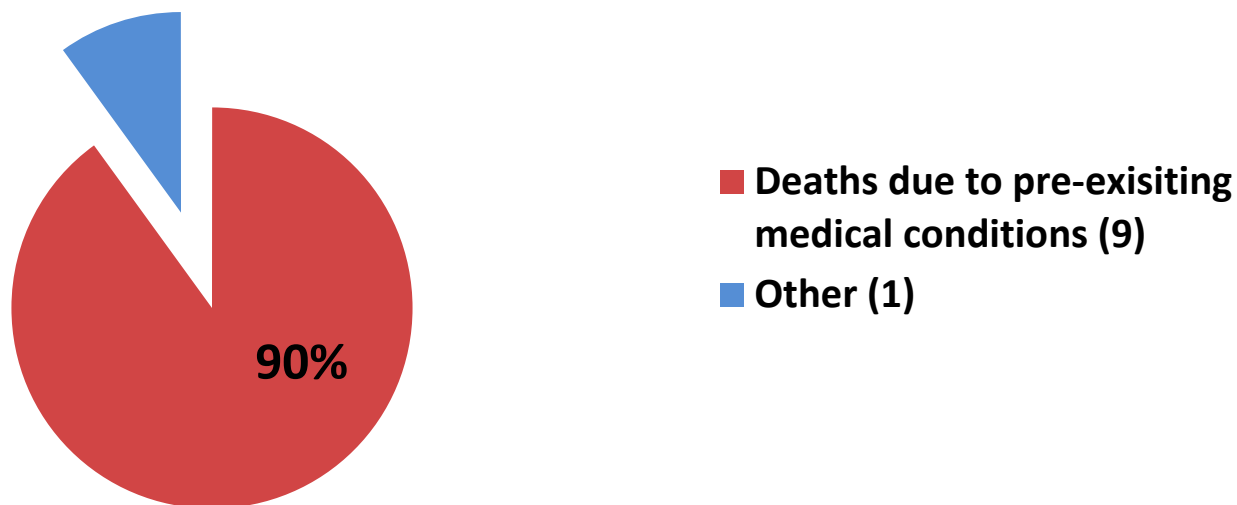


Deaths of Persons Over the Age of 50

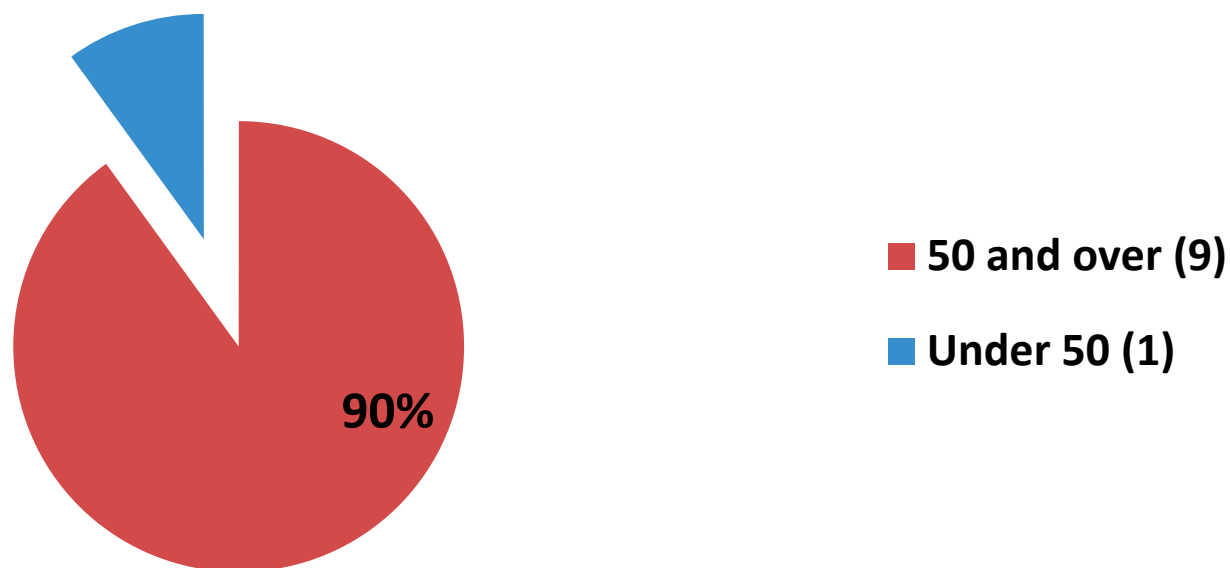


Primary Contributing Factors of Snorkeler/Diver Deaths in 2014

Deaths due to Pre-existing Medical Conditions/Obese



2014 Deaths of Persons Age 50 and Over



Aloha,

I am writing to express my strong support of HCR86 which will be heard by the Committee on Ocean, Marine Resources, and Hawaiian Affairs Wednesday, March 25th.

As reported by KITV on August 25, 2014, "According to state Health Department statistics, 79 tourists died while snorkeling from 2009 through 2013. That's more than scuba diving (8), free-diving (1) and surfing (3) or swimming (32) combined. In fact, the 79 snorkeling-related drownings make it the leading cause of accidental death among the 369 categories of injuries tracked by the Health Department over the five year period. "

<http://www.kitv.com/news/79-tourists-die-while-snorkeling-in-hawaiian-waters-over-five-year-period/27728674#.VN9buwi54s4.facebook>

I am a strong supporter of improving safety for tourists enjoying Hawaii's water sports. I believe that by requiring people employed in the ocean recreation industry to have professional level of safety training will increase safety and enjoyment for visitors to Hawaii.

Please move this resolution along in committee.

Sincerely
Russell K Laros III
73-4337 Napala Place
Kailua-Kona, HI. 96740
(808) 895-1791

LATE